

**RESOLUTION GRANTING ADDITIONAL EXTENSION OF TIME UNTIL JUNE 8,
2010 FOR HIGHLANDS REGION MUNICIPALITIES TO FILE THIRD ROUND
PETITION FOR SUBSTANTIVE CERTIFICATION AND CONTINUING THE SCARCE
RESOURCE RESTRAINT IMPOSED ON NOVEMBER 12, 2008**

WHEREAS, the New Jersey Supreme Court determined, in its Mount Laurel decisions, that every New Jersey municipality has a constitutional obligation to provide, through its land use regulations, a realistic opportunity for a fair share of the region's present and prospective needs for housing that is affordable to low and moderate income families; and

WHEREAS, the New Jersey Legislature enacted the Fair Housing Act on July 2, 1985 to establish an administrative alternative to the disputes involving exclusionary zoning previously heard by the Court; and

WHEREAS, the Fair Housing Act specifies that the interest of all New Jersey citizens, including low and moderate income families in need of affordable housing, would be best served by a comprehensive planning and implementation process, and establishes the Council on Affordable Housing (COAH), granting COAH the responsibility to determine municipal compliance with the Fair Housing Act in accordance with sound regional planning considerations for municipalities that have placed themselves under COAH's jurisdiction; and

WHEREAS, the New Jersey Highlands Water Protection and Planning Act recognizes that the Highlands Region is an essential source of drinking water, providing clean and plentiful drinking water for one-half of the State's population, containing other exceptional natural resources such as clean air, contiguous forest lands, wetlands, pristine watersheds, and habitat for fauna and flora, and includes many sites of historic significance, and provides abundant recreational opportunities for the citizens of the State; and

WHEREAS, the Highlands Council adopted its Regional Master Plan (RMP) on July 17, 2008; and

WHEREAS, on July 17, 2008, the Fair Housing Act was amended by P.L. 2008, Chapter 46, to create a responsibility for the Highlands Council to identify and coordinate opportunities for affordable housing on a regional basis with consideration

for infrastructure, employment opportunities, and transportation and to require a 20 percent affordable housing set-aside in residential developments to the extent this is economically feasible; and

WHEREAS, on September 5, 2008, Governor Corzine signed Executive Order 114 which requires COAH and the New Jersey Highlands Council (Highlands Council) to enter into a Memorandum of Understanding (MOU) designed to coordinate the regulations of both agencies to maximize affordable housing opportunities while preserving critical environmental resources within the Highlands Region; and

WHEREAS, COAH and the Highlands have prepared such an MOU, which was adopted by COAH on October 29, 2008 and by the Highlands Council on October 30, 2008; and

WHEREAS, the MOU provides for a cooperative planning process between the Highlands Council and COAH to advance coordinated and comprehensive regional planning, and provide consistent planning policies upon which municipalities may rely; and

WHEREAS, conformance with the RMP requires revisions to municipal and county master plans and development regulations, as applicable to the development and use of land, to align them with the goals, requirements, and provisions of the RMP; and

WHEREAS, under voluntary Plan Conformance, the Highlands Act provides that municipalities and counties with lands in the Highlands Planning Area have the option to petition the Highlands Council to revise their master plans and associated regulations, as applicable to the development and use of land in the Planning Area, to conform with the goals, requirements, and provisions of the RMP; and

WHEREAS, pursuant to the Highlands Act, municipalities that are located wholly within the Preservation Area of the Highlands Region are required to revise their municipal master plan and development regulations as may be necessary in order to conform to the RMP and to submit the revised plan and regulations to the Highlands Council; and

WHEREAS, COAH regulations established a December 31, 2008 deadline for municipalities currently under the jurisdiction of COAH to submit third round petitions for

substantive certification of a municipal housing element and fair share plan; and

WHEREAS, in keeping with the requirement in Executive Order 114 to provide reasonable extensions of deadlines, the MOU between the Highlands and COAH specifies that COAH shall grant a waiver from the December 31, 2008 deadline to December 8, 2009 for any municipality under COAH's jurisdiction that, before December 31, 2008: 1) submits a duly adopted Notice of Intent to Petition in accordance with the Highlands Council's Plan Conformance Guidelines; and 2) submits a duly adopted resolution notifying COAH of its intent to petition COAH for substantive certification of a housing element and fair share plan no later than December 8, 2009; and

WHEREAS, pursuant to N.J.A.C. 5:96-12.1, COAH may, at any time, upon its own determination or upon the application of any interested person, issue such orders as may be necessary to require that a municipality take appropriate measures to reserve scarce resources that may be essential to fulfill the municipality's fair share obligation; and

WHEREAS, on November 12, 2008, COAH adopted a resolution granting a waiver from the December 31, 2008 deadline to submit a revised housing element and fair share plan pursuant to N.J.A.C. 5:96-16, extending that deadline to December 8, 2009, for all Highlands municipalities under the jurisdiction of COAH provided any municipality seeking such an extension met the criteria set forth in the MOU between the Highlands and COAH as noted herein; and

WHEREAS, on November 12, 2008, COAH also imposed a scarce resource restraint on all municipalities in the Highlands Region under COAH's jurisdiction in order to preserve scarce land, water, and sewer resources and to dedicate these resources on a priority basis for the production of affordable housing until such time as the municipality receives substantive certification from COAH or demonstrates that appropriate measures have been taken to preserve such resources; and

WHEREAS, on December 18, 2008, the Highlands Council approved a 2009 Plan Conformance Grant Program to assist municipalities in developing a Petition for Plan Conformance to the Highlands Council consisting of seven modules: (1) the Current Municipal Conditions and Build-out Analysis; (2) the Land Use and Resource Capacity Analysis based on the RMP; (3) the Housing element and Fair Share Plan in accordance with the

Fair Housing Act; (4) the Environmental Resource Inventory; (5) the Highlands Master Plan Element; (6) the Highlands Regulations; and (7) the Municipal Self-Assessment, Implementation Plan and Petition; and

WHEREAS, since COAH's approval of the waiver to extend the deadline for submission of third round petitions for substantive certification, over 50 municipalities submitted a duly adopted Notice of Intent to Petition for Plan Conformance and received the extension from COAH to file revised housing elements and fair share plans by December 8, 2009, and are working cooperatively with the Highlands Council and COAH to complete the seven Plan Conformance Modules; and

WHEREAS, on August 12, 2009, COAH, in cooperation with the Highlands Council, adopted a resolution that included specific procedures to calculate adjusted growth projections within the Highlands Region, consistent with the RMP and municipal build-out reports, to be utilized by municipalities that conform to the Highlands Plan; and

WHEREAS, municipal build-out reports developed by the Highlands Council for the Highlands Region, including procedures for Highlands municipalities to calculate their build-out capacity under the RMP, are not complete for all municipalities within the Highlands Region; and

WHEREAS, pursuant to P.L. 2008, Chapter 46, COAH, in cooperation with the regional planning entities, is developing a Regional Affordable Housing Development Program (RAHDP) that permits municipalities within the jurisdiction of a regional planning entity to cooperatively plan with other municipalities for regional development of up to 50 percent of a municipality's affordable housing obligation based on certain conditions and requirements, and COAH will not have adopted guidance on the RAHDP for planning purposes until September 2009 or adopted the RAHDP as rules until a time thereafter; and

WHEREAS, the proposed RAHDP permits the regional planning entity to establish a priority system among the sending and receiving municipalities; establishes limitations on the number of units to be regionally developed; and sets up a payment schedule for the regionally developed units depending on the location of a particular unit; and

WHEREAS, a revised housing element and fair share plan for Highlands municipalities that intend to participate in the proposed RAHDP, and that satisfy the requirements and conditions thereof, will include the affordable housing units regionally planned for that may be sent or received by a municipality under the RAHDP and will need to be consistent with the guidance and subsequently adopted RAHDP regulations; and

WHEREAS, in order for municipalities in the Highlands to have adequate time in which to conform to the Highlands RMP and to prepare a fair share plan that is consistent with the RMP, it is necessary to provide an extension of an additional six months from the December 8, 2009 filing deadline for Highlands municipalities.

NOW, THEREFORE, BE IT RESOLVED, that COAH hereby extends its waiver for Highlands municipalities that have been granted an extension under COAH's November 12, 2008 resolution from the December 31, 2008 deadline to submit a revised housing element and fair share plan, until June 8, 2010; and

BE IT FURTHER RESOLVED, that the scarce resource restraint imposed by COAH by resolution dated November 12, 2008, and all conditions set forth therein, shall remain in full force and effect until such time as any Highlands municipality that makes use of this extension receives substantive certification from COAH or demonstrates to COAH that appropriate measures have been taken to preserve scarce land, water, and sewer resources and that same have been dedicated on a priority basis for the production of affordable housing.

I hereby certify that this Resolution
was duly adopted by the Council on Affordable
Housing at its meeting on August 12, 2009

A handwritten signature in black ink, reading "Renee Reiss". The signature is fluid and cursive, with the first name "Renee" and last name "Reiss" clearly distinguishable.

Renee Reiss
Council Secretary